

Message Text

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ORIGIN EB-08

INFO OCT-01 EUR-12 ISO-00 L-03 SSO-00 INRE-00 NSCE-00
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L:LMARKS (SUBS)

CAB:DFARMER (SUBS)

DOT:WKUTZKE (SUBS)

EUR/WE:EJBEIGEL (SUBS)

DOT:RYOUNG (SUBS)

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TO AMEMBASSY PARIS IMMEDIATE

INFO AMEMBASSY BERN IMMEDIATE

AMEMBASSY BONN IMMEDIATE

AMEMBASSY LONDON IMMEDIATE

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E.O. 11652: N/A

TAGS: EAIR, FR

SUBJECT: CIVAIR - PAN AM CHANGE OF GAUGE

REF: ATWOOD-MYERSON TELECON

1. DEPARTMENT REQUESTS HIGH LEVEL APPROACH TO FONOFF
IMMEDIATELY ALONG FOLLOWING LINES:

-- A. AS WE HAVE SAID BEFORE, U.S. INSISTENCE ON CHANGE
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OF GAUGE ISSUE IS NOT INTENDED TO CREATE A SPECIFIC ISSUE
WITH FRENCH, BUT ARISES BECAUSE THIS ISSUE IS IMPORTANT TO
U.S. INTERNATIONAL AIR TRANSPORT SYSTEM. IT IS UNFORTUNATE
THAT CONTROVERSY HAPPENS TO HAVE FOCUSED ON U.S.-FRANCE
CIVAIR RELATIONS. FYI. PURPOSE THESE REMARKS, AS PER
ATWOOD-MYERSON TELECON, IS TO SOOTHE FRENCH SENSIBILITIES,
WITHOUT INDICATING UNCERTAINTY ABOUT MERITS OF OUR

POSITION. END FYI.

-- B. DEPT BELIEVES THAT BOTH COUNTRIES SHOULD TRY TO FIND SOME SENSIBLE WAY OUT OF THE CONFRONTATION RESULTING FROM FRENCH ACTION AND EXPECTED U.S. COUNTERMEASURES. WE THEREFORE PROPOSE THAT ISSUE WHETHER CHANGE OF GAUGE IN THIRD COUNTRIES IS PROVIDED IN AIR TRANSPORT AGREEMENT BE SUBMITTED TO ARBITRATION UNDER FOLLOWING GUIDELINES:

-- (1) PARTIES WOULD MEET PROMPTLY IN PARIS OR WASHINGTON TO NEGOTIATE COMPROMIS FOR AN EXPEDITED ARBITRATION PROCEEDING WITH A VIEW TO REACHING FINAL ARBITRAL DECISION VERY QUICKLY, E.G., 90 DAYS.

-- (2) ARBITRAL DECISION WOULD BE BINDING ON BOTH PARTIES.

-- (3) PENDING ARBITRAL DECISION, GOF WOULD ALLOW THE PRESENT PAN AM CHANGE OF GAUGE OPERATION TO CONTINUE WITHOUT PREJUDICE TO ITS POSITION AND USG WOULD REFRAIN FROM TAKING ANY COUNTERMEASURES.

-- C. WE WOULD APPRECIATE FRENCH REVIEW AND RESPONSE TO THIS PROPOSAL PROMPTLY. U.S. WILL REFRAIN FROM TAKING ANY STEPS TOWARDS RETALIATION PRIOR TO MONDAY, BUT ACTION THEREAFTER SHOULD BE EXPECTED.

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-- D. PAN AM HAS CANCELLED DISPUTED SERVICE UNTIL MONDAY.

2. IF FRENCH ASK WHETHER U.S. WILL AGREE TO EXPEDITED ARBITRATION IF GOF UNWILLING TO ALLOW PAN AM OPERATIONS PENDING ARBITRAL AWARD, EMBASSY SHOULD REPLY THAT OUR PROPOSAL IS INTENDED TO AVOID FRENCH ACTION AGAINST PAN AM AND U.S. COUNTERMEASURES AGAINST AIR FRANCE. IF PAN AM SERVICE REMAINS SUSPENDED WE WOULD ENTERTAIN GOF PROPOSAL FOR ARBITRATION BUT WE ARE NOT NOW MAKING SUCH PROPOSAL OURSELVES. WE WOULD NOT OF COURSE AGREE TO REFRAIN FROM COUNTERMEASURES IN INTERIM.

3. FYI. INTERAGENCY AVIATION POLICY COMMITTEE IS MEETING, COINCIDENTALLY, AT DEPARTMENT AT 10:30 A.M. (WASHINGTON TIME) ON MONDAY. WE WOULD GREATLY APPRECIATE IMMEDIATE EMBASSY REPORT MONDAY SO THAT, IF POSSIBLE, FRENCH RESPONSE COULD BE CONSIDERED THEN. CHRISTOPHER

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